

EXHIBIT C

Excerpts from Depositions of:

Mark P. Clemons, M.D.
Babu Rao Paidipalli, M.D.
Helen Lovelace
Kelly Kish, R.N.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TENNESSEE

3 DANIEL LOVELACE AND)
4 HELEN LOVELACE,)
5 INDIVIDUALLY AND AS)
6 PARENTS OF BRETT)
7 LOVELACE, DECEASED,)
8)
9)
10 Plaintiffs,)
11 VS.) 2:13-CV-02289dkv
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DEPOSITION

OF

MARK CLEMONS, M.D.

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February 6, 2014

ORIGINAL

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MID-SOUTH REPORTING
Pepper Glenn, CCR
P. O. Box 609
Southaven, Mississippi 38671
(901) 525-1022

1 did you ever look at the Physicians' Desk
2 Reference to study Fentanyl's warnings?

3 A. No, as I don't give Fentanyl.

4 Q. Did you, on March 12, 2012, know that
5 there were specific warnings about respiratory
6 suppression, an alteration in the respiratory
7 rate of patients given the drugs?

8 A. No, I did not know this.

9 Q. So you lack knowledge of the FDA
10 approved warnings that applied to these drugs
11 that were given to Brett Lovelace by
12 Dr. Paidipalli?

13 A. Correct.

14 Q. Now, when Brett Lovelace reached the
15 recovery room -- which I'm going to call PACU or
16 I may call it recovery.

17 A. We prefer recovery room, too.

18 Q. Okay. It's interchangeable. He was
19 not -- this is a question, not an answer. He was
20 not on supplemental oxygen at that time, was he?

21 A. My experience at LeBonheur is
22 everybody leaving the operating room is on
23 supplemental oxygen.

24 Q. Do you recall him --

1 Q. Do you know what a lateral position
2 is?

3 A. On their side.

4 Q. Okay. Is that -- would that have been
5 a proper position for Brett to have been -- been
6 in, is on his side? Would that have been an
7 effective --

8 A. Commonly.

9 MR. GILMER: Object to the
10 form.

11 BY MR. LEDBETTER:

12 Q. Would that have been an effective
13 position for him to have been in?

14 A. On the side would have been a good
15 position.

16 Q. All right. Now, at the time that you
17 departed the PACU after Brett Lovelace's surgery,
18 did you leave any orders for the attending nurse
19 in the PACU to put him in a different position
20 such as a lateral position or a Fowler's
21 position?

22 A. I don't routinely tell the nurse to
23 put them in any particular position. The
24 recovery room has its procedures to get people

1 awake and kids move around, but I had no -- I
2 don't believe I had any orders for any particular
3 position.

4 Q. Now, would you agree that the lateral
5 position, which is also a Sims' position I'll
6 reference, you would have been able to observe
7 whether or not Brett Lovelace's airway was
8 functional -- his upper airway was functional,
9 could you not have?

10 A. What you would better observe is
11 whether he was drooling or bleeding in the
12 lateral position, whether he was breathing or
13 not. I don't know that that would have helped
14 you.

15 Q. Okay. Now, had you left him with
16 orders for supplemental oxygen, that would also
17 have been prudent if no one had, would it not
18 have?

19 MR. JOHNSON: Objection.

20 A. My experience is they roll out of the
21 operating room on oxygen whether I order it or
22 not.

23 BY MR. LEDBETTER:

24 Q. But you did not verify that?

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE AND HELEN)
LOVELACE, Individually, and)
as Parents of BRETT LOVELACE,)
Deceased)
Plaintiff,)
VS.) NO. 2:13-cv-02289 dkv
PEDIATRIC ANESTHESIOLOGISTS,)
PA; BABU RAO PAIDIPALLI and)
MARK P. CLEMONS ,)
Defendants.)

DEPOSITION OF BABU RAO PAIDIPALLI, M.D.

January 9, 2014

MIDSOUTH REPORTING SERVICE

LU ANNE R. DUDLEY, CSR, LCR #349
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(901) 525-1022

1 A I'm in the operating room area.

2 Q You were in the operating room?

3 A Uh-huh.

4 Q Were you actually involved in handling an
5 operation?

6 A No.

7 Q You were just there?

8 A No. I was just in the hallway.

9 Q Okay. Okay. Now following the surgery
10 done by Dr. Clemons, was Brett given supplemental
11 oxygen afterwards during his transit to the PACU?

12 A Yes, sir.

13 Q Okay. Did you order supplemental oxygen
14 for him in the PACU?

15 A Yes, sir.

16 Q You ordered supplemental oxygen?

17 A Yeah. We have a standard order saying
18 that, you know, that the patient needs 02
19 supplementation to maintain the saturation of 92 or
20 95 and above.

21 Q All right. My question was when he left
22 surgery was he on supplemental oxygen.

23 A Yes, sir.

24 Q Okay. And when he arrived in the PACU,
25 even though you were not there, was he on

1 supplemental oxygen, do you think?

2 A I think.

3 Q All right.

4 A That is the routine to have a supplemental
5 oxygen in the recovery room.

6 Q Was he outfitted when he left the surgical
7 suite with a pulse oximeter on one of his fingers?

8 A Yes, sir.

9 Q And had there been any previous problem
10 with that pulse oximeter during his surgery?

11 A No, sir.

12 Q Do you know whether the pulse oximeter that
13 he wore when he went to the PACU was, in fact, the
14 same one that he wore when he went to the ICU after
15 the Harvey team came?

16 A Probably the same one.

17 Q Okay. Did you ever test this pulse
18 oximeter to see whether it was defective or failed?

19 A There are no tests in the sense because
20 we -- whether it is working or not. If it is not
21 working, sometimes we change it to a different pulse
22 oximeter.

23 Q Now at the time when the CRNA, Grace
24 Freeman, would have attended Brett Lovelace, would --
25 do you know whether she saw the parents at that time?

1 Aldrete score perfect.

2 Q Now at the time that Brett Lovelace was
3 extubated, approximately how much time passed between
4 that moment and the time that he would have been
5 transported?

6 Is that normally five minutes? Or how long
7 is that?

8 A Can you rephrase the question, please.

9 Q Yes.

10 Between the time of extubation of the
11 patient how much time elapsed before he was
12 transported to the PACU?

13 A We extubated the patient 10:26. And the
14 patient reached the recovery room 10:35, so nine
15 minutes.

16 Q Is it your testimony that the patient was
17 virtually awake at the time that he was extubated?

18 A Yes, sir.

19 Q Okay. As a rule and a practice how often
20 would you allow patients to go and be on their face
21 in recovery?

22 MR. COOK: Same, form.

23 Go ahead.

24 A That is a speculation.

25

1 eyes, we asked him to open the eyes and take a deep
2 breath. When they follow those commands, that we
3 consider awake. And we use the clinical judgment --
4 I used the clinical judgment to extubate that patient
5 at that time.

6 Q Are you telling us that Brett Lovelace had
7 fully emerged from and recovered appropriately from
8 the anesthesia?

9 A Not fully recovered, but he is awake enough
10 to be extubated. That is why we take them to the
11 recovery room to be fully awake.

12 Q Now on March 12, 2012 how well did you know
13 Nurse Kelly Kish?

14 What was your experience with her as a PACU
15 nurse?

16 A I know she was working in the recovery
17 room. I'm not sure how long she has been working.

18 Q What was your experience with her?

19 Was she a good nurse?

20 A I don't know much about her.

21 Q Did you ever complain about her before this
22 event?

23 A No, sir.

24 Q Okay. Did you talk to Grace Freeman and
25 ask if she personally visited with Nurse Kelly Kish

keep him on either a continuous positive airway pressure or to continue his intubation and mechanical ventilation until he was fully awake?

4 A Can you repeat that question, please.

5 Q Did you issue instructions or orders for
6 Brett to be on continuous positive airway pressure
7 after he was transported?

8 A We have a standard; not a continuous airway
9 pressure, but continuously getting oxygen to the
10 patient by face mask.

11 Q Okay. And what you are saying is he was
12 continuously on oxygen until he was fully awake?

13 A Supposed to be, yes.

14 Q Okay. Were you aware that he was not on
15 oxygen?

16 A I did not know that.

17 Q Okay. I think you said earlier that you
18 did not administer any narcotic analgesic to him?

19 A No, I didn't say that.

20 MR. COOK: Objection.

21 BY MR. LEDBETTER:

22 Q You gave him an opiate for the anesthetic;
23 correct?

24 A Yeah.

25 Q But did you give him an analgesic besides

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE and
HELEN LOVELACE, Individually,
and as Parents of BRETT LOVELACE,
deceased,

Plaintiff,

Vs. NO. 2:13-cv-02289-JPM-dkv

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and MARK P.
CLEMONS, MD.

Defendants.

THE DEPOSITION OF HELEN LOVELACE

January 15, 2014

VIDEO DEPOSITION

Madelyn E. Gray
Court Reporter

Court Reporter
Suite 303, 22 N. Second Street
Memphis, Tennessee 38103
(901) 527-1100



COPY

1 walked into PACU with Dr. Clemons.

2 Q. Okay.

3 A. That's the first time I had saw her.

4 Q. All right. But did she say, when you
5 were in PACU, that he had rolled over on his
6 stomach on the way from the OR to PACU?

7 A. Yes. When Dr. Clemons asked me about
8 Brett being, if he slept on his stomach.

9 Q. Okay.

10 A. That's when Nurse Kish told Dr. Clemons
11 and I that that's when he had rolled over.

12 Q. Okay. Was there anymore discussion among
13 the three or four of you about sleeping on his
14 stomach?

15 A. No.

16 Q. What was Brett's -- I mean, was he awake
17 at all, partially awake, groggy, out of it?

18 A. He was not awake at all.

19 Q. Okay. And was he ever awake at all
20 during --

21 A. No.

22 Q. Let me finish.

23 A. He was never awake from the time I walked
24 into PACU until I left on Thursday without my

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE and
HELEN LOVELACE, Individually
and as Parents of BRETT
LOVELACE, Deceased,

Plaintiff,

v. Case Number 2:13-cv-02289

PEDIATRIC ANESTHESIOLOGISTS,
P.A., BABU RAO PAIDIPALLI, and
MARK P. CLEMONS,

Defendant.

VIDEOTAPE DEPOSITION

OF

KELLY KISH

May 15, 2014

COPY

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RIVERSIDE REPORTING

1 A. Yeah, I don't remember all the blankets.
2 I remember his feet; you know, his legs being
3 tucked under. I don't remember them being that
4 far, and I can't tell which way his face is
5 facing there. He kind of had longer hair than I
6 remember, but that's um ...

7 Q. But do you have any reason to doubt
8 that's the same person in all these pictures?

9 A. Yes, that's correct.

10 MS. MAGEE: Did you mark this as 8?

11 MR. LEDBETTER: Yes, mark it,
12 please.

13 (Whereupon, the above-mentioned
14 photograph was marked as Exhibit Number
15 8 to the testimony of the witness.)

16 Q. (By Mr. Ledbetter) Now, at the time --
17 at the time that you were there with him and his
18 parents were there with him, did Dr. Clemons have
19 an opportunity to see Brett positioned on his
20 stomach with his legs bunched up under him?

21 MS. MAGEE: Object to the form.

22 MR. TALLEY: Go ahead and answer.

23 Q. (By Mr. Ledbetter) Go ahead and answer.

24 A. He did. He did.

1 Q. Okay. For how many minutes would Dr.
2 Clemons have been there talking and chatting as
3 he had a clear view of this patient in this
4 position on his stomach?

5 MS. MAGEE: Same objection.

6 MR. TALLEY: Go ahead and answer.

7 A. I would say approximately five minutes.

8 Q. Okay. Did either he or anyone acting on
9 behalf of the anesthesia team say, good gracious,
10 get him in his side in a normal position?

11 MR. GILMER: Object to the form.

12 MS. MAGEE: Object to the form.

13 Q. (By Mr. Ledbetter) Did they say that?

14 MR. TALLEY: Go ahead and answer.

15 A. No, they did not.

16 Q. If they had said that to turn him to a
17 lateral position, would you have done that?

18 A. I would have done that.

19 Q. Okay. And if they had told you that he
20 needed to be on supplemental oxygen, would you
21 have attached that or connected him to
22 supplemental oxygen?

23 A. I would have.

24 MS. MAGEE: Object to the form of

1 the question.

2 Q. (By Mr. Ledbetter) Do you agree that in
3 the course of what happened in the ensuing hour
4 and a half that if he had been moved to the
5 horizontal position or lateral position or if he
6 had been on supplemental oxygen that what
7 happened to him might have been avoided?

8 MR. GILMER: Calls for speculation.

9 MS. MAGEE: Same.

10 MR. TALLEY: Go ahead and answer if
11 you can.

12 Q. (By Mr. Ledbetter) Do you believe that
13 if the doctors had ordered him to be placed in a
14 lateral Fowler's position and given supplemental
15 oxygen that what happened to Brett Lovelace might
16 have been or could have been prevented?

17 MR. GILMER: Same objection.

18 MS. MAGEE: Objection, calls for
19 speculation.

20 MR. TALLEY: If you can answer, go
21 ahead.

22 A. Like I said before, if I had had him
23 supine, I don't think this would have happened.
24 The doctor did not tell me and it was not his --

1 not seen the orders since I took care of him that
2 day. We use our judgment.

3 Q. Well, sitting here today -- I wouldn't
4 ask you this if I thought this was false -- is it
5 your best understanding that he was neither
6 delivered with supplemental oxygen nor was there
7 an order that he continue to have it?

8 MR. GILMER: Let me object. You've
9 asked this question about ten times
10 in about ten different ways.

11 Q. (By Mr. Ledbetter) So it's ten
12 questions. Do you remember it?

13 MS. MAGEE: Object to the form.

14 MR. TALLEY: Go ahead and answer.

15 A. It is my recollection he did not come to
16 me on oxygen when he came from the O.R.

17 Q. Now, could you tell me whether Dr.
18 Paidipalli insured that Brett Lovelace was safely
19 discharged from the PACU?

20 MR. GILMER: Object to the form.

21 Q. (By Mr. Ledbetter) In accordance with
22 LeBonheur's policies? Did he insure that?

23 MR. GILMER: Object to the form.

24 A. That he was discharged?

1 MS. MAGEE: Same objection.

2 A. I do not remember having a patient like
3 that.

4 Q. What was the common, customary and
5 accepted position for a child of that age who had
6 had a tonsillectomy as they delivered to you?

7 MS. MAGEE: Object to form.

8 MR. GILMER: Object.

9 Q. (By Mr. Ledbetter) What's the common,
10 accepted position that they came in?

11 MS. MAGEE: Object to the form.

12 MR. GILMER: Same.

13 MR. TALLEY: Go ahead and answer.

14 A. They normally would be in a
15 semi-Fowler's position.

16 Q. You better state that clearly for them.

17 A. A semi-Fowler's position. Usually
18 that's supine with the head of the bed elevated a
19 little bit.

20 Q. And why is that the right way to
21 position someone who's had a tonsillectomy and
22 adenoidectomy?

23 MR. GILMER: Object to the form.

24 MS. MAGEE: Join the objection.

1 MR. TALLEY: If you can answer.

2 A. Well, that's the most common position
3 for most of our post-op patients to be able, you
4 know, with the head of their bed up a little bit
5 so that they're -- easier for them to breathe
6 instead of being flat with the head up a little
7 20 or 30 degrees.

8 Q. What about mucus and then blood and such
9 things as that coming out freely rather than
10 pooling?

11 MS. MAGEE: Object to the form.

12 MR. GILMER: Object to the form.

13 Q. (By Mr. Ledbetter) Is that one reason
14 also that the secretions that came from the
15 surgery could come out?

16 MS. MAGEE: Same objection.

17 A. It's possible that that would be a
18 reason.

19 Q. Okay. After Brett was turned over,
20 did -- turned over after the code or before the
21 code was called, did you observe a pool of mucus
22 and blood where his face had been on the gurney?

23 A. I don't recall that.

24 Q. Don't recall, okay. Had you on previous

1 and answered.

2 Q. (By Mr. Ledbetter) Do you agree with
3 that?

4 MR. TALLEY: Go ahead and answer,
5 last time.

6 Q. (By Mr. Ledbetter) Do you agree Dr.
7 Clemons -- do you agree with him when he says
8 that he could have ordered his position to be
9 changed or moved but left it alone, Clemons, Page
10 61, Lines 9 through 11?

11 A. He could have told me to put him in a
12 different position.

13 Q. And do you agree with Dr. Clemons who on
14 Page 25 of his deposition said, my experience at
15 LeBonheur is everybody leaving the operating room
16 is on supplemental oxygen, Page 25, Lines 21
17 through 24? Do you agree with that?

18 A. Always on -- did he say always on
19 supplemental oxygen?

20 Q. My experience is everybody leaving is on
21 supplemental oxygen; in other words, was that a
22 custom?

23 A. It's common, very common.

24 Q. Okay. Well, that will do it. Now,